IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 18486 of 2005(A)

PETITIONER:

K.S.R.T.C. REP.BY ITS MANAGING DIRECTOR,
TRANSPORT BHAVAN, EAST FORT, TRIVANDRUM.

BY ADV. SRI.T.RAVIKUMAR, SC, KSRTC

RESPONDENTS:
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1. THE REGIONAL TRANSPORT AUTHORITY,
REP. BY THE SECRETARY, KANNUR.

2. MR.U.D.SHANI,
SHEENA NIVAS, P.O. PATHAYAKUNNU, PANOOR.

BY ADV.SHRI.BASANT, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)No. 18486/2005

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE STAT JUDGMENT DATED 31/5/2002 IN MVAA NO.292/2002.

P2 : COPY OF THE PROCEEDINGS OF RTA DATED 16/8/2002.

P3 : COPY OF THE JUDGMENT IN O.P.No. 33155/2002 DATED 11/11/2002.

P4 : COPY OF THE PROCEEDINGS DATED 28/11/2002.

P5 : COPY OF THE PROCEEDINGS DATED 27/5/2004.

P6 : COPY OF THE ORDER IN MVAA NO.146/2004 DATED 29/10/2004.

P7 : COPY OF THE ERNAKULAM – PAYYANNUR SCHEME DATED 05/12/1965.

P8 : COPY OF THE KOZHIKKODE-KASARAGOD SCHEME DATED 23/10/1963.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 18486 of 2005

Dated, this the 29th day of March, 2007

J U D G M E N T

Heard the counsel for the KSRTC and Adv. Shri.O.D.Sivadas appearing for the 2nd respondent, whose name was not shown in the list and the learned Govt. Pleader appearing for 1st respondent.

2. KSRTC is challenging Ext.P6 order on the ground of scheme violation. However on going through Ext.P6 I find the issue decided by the STAT is only with regard to 2nd respondent's entitlement for replacement of vehicle, before commencement of operation, in respect of the vehicle for which permit was granted. Counsel for the 2nd respondent rightly pointed out that when vehicle is produced pursuant to grant of permit, Rule 159(2) is satisfied and it is open to the operator to substitute the vehicle and commence the operation with another one after the grant but before the issue of permit. Since the issue raised by KSRTC has not considered by the STAT, it does not arise from that order and therefore, challenge against Ext.P6 order is not maintainable. So far as KSRTC's contention is concerned, the RTA has not

considered their objection while granting permit. I feel the question therefore should be raised through a revision before the STAT.

This WP(C) is accordingly dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg